

APPENDIX B

ENVIRONMENTAL MANAGEMENT SYSTEM

1. This Appendix B is incorporated by reference into the Consent Decree resolving United States of America v. Old Dutch Mustard Company, Inc., d/b/a Pilgrim Foods (“Pilgrim”) filed with the United States District Court, District of New Hampshire (“the Consent Decree”).

2. The primary objectives of the Environmental Management System (“EMS”) shall be to assist in ensuring Pilgrim’s compliance with applicable environmental requirements and to improve overall environmental performance at Pilgrim’s Greenville, New Hampshire, facility (“Facility”). In addition, the EMS shall promote employee awareness, education, and involvement in the environmental aspects of the organization’s operations.

3. Not later than the date of lodging of this Consent Decree, Pilgrim shall propose to EPA for acceptance or rejection, the selection of an independent environmental consulting firm (“EMS Consulting Firm”) to conduct an Initial Review and Evaluation as described in Paragraph 6 of this Appendix B. Pilgrim shall also submit, not later than the date of lodging, the schedule, including milestones, for conducting the Initial EMS Review and Evaluation as described in Paragraph 6 of this Appendix B.

4. The EMS Consulting Firm must certify that its project manager: (a) meets the qualification requirements of ISO 19011, Section 7 (First edition, 2002-10-01); and

(b) has expertise and competence in the regulatory programs under federal and state environmental laws. The EMS Consulting Firm and its employees, agents, and subcontractors who work on the EMS (the "EMS Consultants") must not directly own any stock in Pilgrim or in any parent or subsidiary, must not be former Pilgrim employees, and must have no other direct financial stake in the outcome of the Initial EMS Review and Evaluation conducted pursuant to this Consent Decree. If Pilgrim has any other contractual relationship with the EMS Consulting Firm, Pilgrim shall disclose to EPA such past or existing contractual relationships. Pilgrim shall submit to EPA a description of the EMS Consulting Firm's qualifications and the certifications required above not later than the date of lodging of this Consent Decree. EPA will notify Pilgrim in writing of its acceptance or rejection of the EMS Consulting Firm as expeditiously as possible.

5. If EPA determines that the proposed EMS Consulting Firm does not meet the qualifications set forth in the previous paragraph, or that past or existing relationships with Pilgrim would potentially affect its ability to exercise the independent judgment and discipline required to conduct the Initial Review and Evaluation, such EMS Consulting Firm shall be rejected and another EMS Consulting Firm shall be proposed by Pilgrim within 30 days of its receipt of EPA's determination.

6. Within four (4) months of the date of lodging of this Consent Decree, Pilgrim, in consultation with the EMS Consulting Firm, shall conduct an initial review

and evaluation of the current environmental management system,^{1/} relating to the operations of both Pilgrim and its Contractors, as defined in Paragraph 25 below (“Initial Review and Evaluation”). Pilgrim and the EMS Consulting Firm shall review and evaluate the current environmental management system to identify gaps using the elements set forth in Paragraphs 9(A) through 9(J) below.

7. Within six (6) months of the date of lodging, Pilgrim and the EMS Consulting Firm shall submit to EPA a report documenting the results of the Initial Review and Evaluation.

8. Based on the Initial Review and Evaluation results and other information, including, but not limited to, information available to Pilgrim as a result of the compliance audit conducted pursuant to Appendix A of the Consent Decree, within 12 months of the date of lodging, Pilgrim and the EMS Consulting Firm shall prepare a written Environmental Management System Manual (“EMS Manual”) in accordance with the primary objectives of the EMS as set forth in Paragraph 2 of this Appendix B addressing, at a minimum, the elements presented in Paragraphs 9(A) through 9(J) below.

^{1/} For the purposes of this Consent Decree, Pilgrim shall refer to the definition of an EMS provided by The International Organization for Standardization (“ISO”) in conducting its review and evaluation of the current environmental management system. ISO defines an EMS as “that part of the overall management system which includes organizational structure, planning activities, responsibilities, practice, procedures, processes and resources for developing, implementing, achieving, reviewing, and maintaining [the organization’s] environmental policy.” The EMS provides the structure by which specific activities related to environmental protection and compliance can be effectively and efficiently carried out. See ISO 14001 (First Edition, 1996-09-01, 3.5).

The EMS Manual shall also contain an EMS implementation schedule for initiating each component of the EMS. The purpose of preparing the EMS Manual is to assist Pilgrim in its program to comply with federal, state and local environmental statutes, regulations, permits, and enforceable agreements (“Environmental Requirements”). For each of the elements identified in Paragraphs 9(A) through 9(J) below, as appropriate, the EMS Manual shall provide a detailed blueprint of the EMS, describing how the activity or program is or will be: (a) established as a formal system, subsystem or task; (b) integrated into ongoing department operations; and (c) contributing to the maintenance of compliance with applicable environmental requirements and improvement of overall environmental performance.

9. The EMS Manual shall address the following elements:

A. Management Policies and Procedures.

1) Pilgrim’s Environmental Policy - This policy must clearly communicate management commitment to achieving and maintaining compliance with applicable environmental requirements.

2) Site-specific Environmental Procedures and Practices.

a. Includes a compilation of general principles, policies, rules, and procedures for site-specific environmental practices.

- b. Describes a process for developing, approving, and communicating standard operating practices for activities having potentially adverse environmental or regulatory compliance impacts.
- c. Clearly identifies organizational responsibilities for maintaining regulatory compliance, including required reporting to regulatory agencies.
- d. Includes a means of ongoing communication of duties and responsibilities under the EMS to employees, on-site service providers, and contractors, and for receiving and addressing their concerns.
- e. Establishes and describes processes to ensure sustained interaction with regulatory agencies, as appropriate, and within the company (e.g., between the various divisions, contractors, and the Environmental Department) regarding environmental requirements and regulatory compliance.

B. Organization, Personnel, and Oversight of EMS.

- 1) Describes, organizationally, how the EMS is implemented and maintained.

- 2) Includes organization charts that identify units, line management, and other individuals having environmental performance and regulatory compliance responsibilities.
- 3) Identifies and defines duties, roles, responsibilities, and authorities of key environmental program personnel in implementing and sustaining the EMS (e.g., could include position descriptions and performance standards for all environmental department personnel, and excerpts from others having specific environmental program and regulatory compliance responsibilities).

C. Accountability and Responsibility.

- 1) Describes accountability and responsibilities of Pilgrim's management, on-site service providers, and contractors for environmental protection practices, compliance, required reporting to regulatory agencies, and corrective actions implemented in their area(s) of responsibility.
- 2) Describes potential consequences for departure from specified operating procedures, including, but not limited to, liability for civil/administrative penalties imposed as a result of noncompliance.

D. Environmental Requirements.

- 1) Describes process for identifying, interpreting, and effectively communicating environmental requirements to affected Pilgrim personnel, on-site service providers, and contractors, and ensuring that facility activities conform to those requirements.
- 2) Establishes procedures for prospectively identifying and obtaining information about changes and proposed changes in environmental requirements that may be applicable to Pilgrim's operations and physical plant, and incorporating those changes into the EMS as appropriate.

E. Assessment, Prevention, and Control.

- 1) Identifies an ongoing process for assessing operations for the purposes of preventing and controlling pollutant releases, ensuring environmental protection, and maintaining compliance with statutory and regulatory requirements. This section shall describe monitoring and measurements, as appropriate, to ensure sustained compliance.
- 2) Describes process for identifying those operations, activities and waste streams where equipment malfunctions and deterioration, operator errors, and discharges or emissions may be causing, or may lead to: (a) adverse environmental impacts and/or regulatory

noncompliance; (b) releases of hazardous waste or other pollutants to the environment; or (c) a threat to human health or the environment.

Identifies where documented standard operating practices need to be developed (see element 9.A.2.b. above).

3) Describes a system for conducting and documenting routine, objective, self-inspections by designated and trained staff, especially at locations identified by the process described in 9.E.2. above.

4) Describes a process for evaluating identified problems using root-cause analysis or other appropriate techniques in order to develop remedies and prevent recurring issues.

5) Describes a process for ensuring input of environmental requirements or other relevant considerations in planning, design, and operation of ongoing, new, and/or changing buildings, processes, maintenance activities, and products.

F. Environmental Incident and Noncompliance Investigations.

1) Describes standard procedures and requirements for incident and noncompliance reporting.

2) Establishes procedures for investigation of incidents and potential noncompliance.

- 3) Describes a system for development, tracking, and effectiveness verification of corrective and preventive actions.
- 4) Each of these procedures shall specify testing of such procedures, where practicable.

G. Environmental Training, Awareness, and Competence.

- 1) Identifies specific environmental education and training required for Pilgrim personnel, and a process for documenting the training provided.
- 2) Describes program to ensure that Pilgrim employees receive or have received the environmental education and training identified in 9.G.1., above, are aware of its environmental policies and procedures, environmental requirements, and their roles and responsibilities within the environmental management system.
- 3) Describes plan for ensuring that personnel responsible for meeting and maintaining compliance with environmental requirements are competent on the basis of appropriate education, training, and/or experience.

H. Record Keeping and Document Control.

- 1) Describes a system of identification, control and maintenance of documents required under and in support of the EMS and a

protocol for responding to inquiries and requests for release of information.

2) To the extent not encompassed within the system developed pursuant to 9.H.1., above, specifies the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.

I. Pollution Prevention Policy.

Describes an internal policy for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions, as appropriate.

J. Continuing Program Evaluation and Improvement.

1) Describes a program for periodic (at least annually) evaluation of the EMS by management and appropriate trained personnel, including incorporating the results of the assessment into program improvements, revisions to the EMS Manual, and communicating findings and action plans to affected employees, on-site service providers, and contractors.

2) Describes a program for periodic audits of facility compliance with environmental requirements. Audit results are reported to upper management and potential violations are addressed through the

process described in Element F. above. Such periodic audits shall take place at least once every three years. Pilgrim shall provide to EPA a copy of the audit report following its first periodic audit within 30 days of completion of the first periodic audit conducted after the Audit sequence described in Appendix A.

10. Pilgrim shall submit the complete Environmental Management System Manual to EPA for review and comment upon its completion.

11. Pilgrim shall, within 30 days of receipt of EPA's comments on the proposed EMS Manual, submit to EPA a supplement to the EMS Manual or a written response, as appropriate, addressing EPA's comments.

12. Upon notification by EPA that it has no further comments or within 14 days of receipt of any additional comments from EPA, Pilgrim shall address EPA's comments and commence implementation of the EMS Manual in accordance with the schedule contained in the EMS Manual. Pilgrim shall submit status reports regarding the implementation to EPA, on a quarterly basis, beginning no later than 30 days from commencing implementation of the EMS Manual. The status reports shall be due on the 15th day of the first month of the next quarter and every quarter thereafter until implementation is complete.

13. Within three years of the date of lodging of this Consent Decree but not sooner than six months from filing of the first status report under the EMS Manual,

Pilgrim shall propose to EPA for acceptance or rejection the selection of an independent environmental auditing firm ("Comprehensive EMS Audit Firm" or "Audit Firm") not involved in the Initial EMS Review and Evaluation to conduct the Comprehensive EMS Review and Evaluation described below. Pilgrim and the Comprehensive EMS Audit Firm shall comply with the provisions of Paragraphs 4 and 5 of Appendix B of the Consent Decree for the purposes of proposing the Comprehensive EMS Audit Firm. Pilgrim shall also submit at this time the schedule, including milestones, for conducting the Comprehensive EMS Review and Evaluation. EPA's acceptance or rejection approval of the Comprehensive EMS Audit Firm shall be conducted pursuant to Paragraphs 4 and 5 of Appendix B of the Consent Decree.

14. Within 30 days of EPA's acceptance or rejection of the Comprehensive EMS Audit Firm, the Comprehensive EMS Audit Firm shall submit a proposed EMS audit work plan ("Audit Work Plan") to Pilgrim and EPA for review and comment.

15. EPA will review the Audit Work Plan and, with written notice to Pilgrim, accept it or identify the deficiencies. If EPA comments on the Audit Work Plan, Pilgrim shall incorporate EPA's comments and submit a revised Audit Work Plan to EPA within 15 days after receiving EPA's comments. EPA's acceptance or rejection of the Audit Work Plan is within its sole discretion and is not reviewable in court. The audit shall be completed within 60 days of EPA's acceptance of the final Audit Work Plan.

16. Pilgrim shall require the Comprehensive EMS Audit Firm to conduct an EMS Audit to evaluate the adequacy of EMS implementation throughout each major organizational unit at Pilgrim and at every level of the organization including upper management, and to identify where further improvements should be made to the EMS. The EMS Audit shall be conducted in accordance with ISO 19011 (First edition, 2002-10-01). The Comprehensive EMS Audit Firm shall assess conformance with the elements specified in Paragraphs 9(A) through (J) above and with the EMS Manual, and shall, at a minimum, determine the following:

- a. Whether there is a defined system, subsystem, program, or planned task for the respective EMS element;
- b. To what extent the system, subsystem, program, or task has been implemented, and is being maintained;
- c. Adequacy of each operation's internal self-assessment procedures for programs and tasks composing the EMS;
- d. Whether Pilgrim is effectively communicating environmental requirements to affected parts of the organization, contractors and on-site service providers;
- e. Whether further improvements should be made to the EMS;
- f. Whether there are observed deviations from Pilgrim's written requirements or procedures; and

- g. Whether there is a system to ensure maintenance of compliance and environmental improvement objectives.

17. Designated representatives from EPA and other environmental regulatory agencies may participate in the EMS audit as observers. Pilgrim shall make timely notification to designated regulatory contacts regarding audit scheduling in order to make arrangements for observers to be present. Pilgrim personnel may also participate in the on-site audit as an observer(s), but may not interfere with the independent judgment of the Comprehensive EMS Audit Firm.

18. Audit Report. Pilgrim shall direct the Audit Firm to develop and concurrently submit an Audit Report to Pilgrim and EPA for the EMS Audit as required by this Consent Decree, within 60 days following the completion of the on-site portion of the audit. The Audit Report shall present the audit findings and shall, at a minimum, contain the following information:

- a. Audit scope, including the period of time covered by the audit;
- b. The date(s) the on-site portion of the audit was conducted;
- c. Identification of audit team members;
- d. Identification of Pilgrim representatives and regulatory agency personnel observing the audit;
- e. The distribution for the EMS Audit Report;

- f. A summary of the audit process, including any obstacles encountered;
- g. Detailed audit findings, including the basis for each finding and each area of concern identified;
- h. Identification of any audit findings corrected or areas of concern addressed during the audit, and a description of the corrective measures and when they were implemented;
- i. Recommendations for improvements to the Comprehensive EMS; and
- j. Certification by the Comprehensive EMS Audit Firm that the Comprehensive EMS Audit was conducted in accordance with the provisions of this Consent Decree.

19. If the Comprehensive EMS Audit Firm believes that additional time is needed to analyze available information or to gather additional information, Pilgrim may request that EPA grant the Comprehensive EMS Audit Firm such additional time as needed to prepare and submit the Audit Report. EPA's decision on whether to grant additional time shall be final and unreviewable.

20. Corrective Measures. Within 60 days after receipt of the Audit Report, Pilgrim shall provide to EPA for review and comment a written response to the recommendations presented in that Report identifying those recommendations it does and

does not intend to implement and/or plans to implement with modification(s). Pilgrim shall include in its response an explanation of its rationale for not implementing and/or modifying any recommendations and an Action Plan for implementing any changes to the EMS based on the Audit Report. The Action Plan shall include specific deliverables, responsibility assignments, and an implementation schedule.

21. EPA shall review the Audit Report and Pilgrim's written response and Action Plan and provide written comments to Pilgrim.

22. Pilgrim shall, within 30 days of receipt of EPA's comments, submit to EPA for review and comment a written response to such comments identifying those recommendations it does and does not intend to implement and/or plans to implement with modification(s). Pilgrim shall include in its response an explanation of its rationale for not implementing and/or modifying any recommendations and an Action Plan for implementing any changes to the EMS based on EPA's comments. The Action Plan shall include a root cause or other appropriate analysis and a corrective action evaluation incorporating, as necessary, specific deliverables, responsibility assignments, and an implementation schedule.

23. Within 30 days after all items or activities in the Action Plan have been completed, Pilgrim shall submit a written Action Plan Completion Certification to EPA.

24. Any submissions made to EPA pursuant to this Appendix B shall not be interpreted as a waiver or limitation of the United States' or any state or local authority to enforce any federal, state, or local statute or regulation including permits.

25. For purposes of this Appendix B, the term "Contractor" shall mean any contractor operating at the Pilgrim Facility and any successor to any contractor operating at the Pilgrim Facility providing services that could affect Pilgrim's obligations under the Listed Statutes and Regulations and Environmental Permits identified in Appendix A of the Consent Decree.

26. Pilgrim may, if appropriate, declare portions of the EMS Manual and underlying information to be confidential pursuant to 40 C.F.R. Part 2.